

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Orlando Vasquez,

Civ. No. 12-955 (PAM/FLN)

Plaintiff,

v.

ORDER

Todd Leonard and
Marty Lagenfield,

Defendants.

This matter is before the Court on the Report and Recommendation (“R&R”) of Magistrate Judge Franklin L. Noel dated October 22, 2012. In the R&R, Magistrate Judge Noel recommends the dismissal of Plaintiff’s Complaint seeking an Order requiring Defendants to prescribe him a particular medication to treat his depression and suicidal tendencies and the payment of \$200,000 in damages. Plaintiff filed timely objections to the R&R.

According to statute, the Court must conduct a de novo review of any portion of the Magistrate Judge’s opinion to which specific objections are made. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). Based on that de novo review, the Court adopts the R&R.

Plaintiff contends that Defendants violated his Eighth Amendment rights by failing to treat his depression in the manner of his choosing. Defendants initially prescribed Plaintiff bupropion to treat his depression, but discontinued that prescription when Plaintiff was

caught “cheeking” the medication. Defendants subsequently prescribed three different substitute medications, which Plaintiff has refused to take. Plaintiff would apparently prefer to be prescribed bupropion.

Plaintiff’s disagreement about the precise method of his treatment does not rise to the level of a constitutional violation. See Estate of Rosenberg v. Crandell, 56 F.3d 35, 37 (8th Cir. 1995) (“The prisoner must show more than negligence, more even than gross negligence, and mere disagreement with treatment decisions does not rise to the level of a constitutional violation.”). The Court therefore agrees with Magistrate Judge Noel’s conclusion and determines that Plaintiff has not established a violation of the Eighth Amendment or any other constitutional rights.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The R&R (Docket No. 101) is **ADOPTED**; and
2. The case is **DISMISSED with prejudice**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 7, 2012

s/ Paul A. Magnuson

Paul A. Magnuson
United States District Court Judge